

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: EQUIPMENT DISTRIBUTION PROGRAM	DOCKET NO. RMU-00-2
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ORDER COMMENCING RULE MAKING

(Issued January 20, 2000)

Pursuant to the authority of IOWA CODE § 477C.4 (1999), the Utilities Board proposes to adopt the rules attached hereto and incorporated by reference. These rules amend 199 IOWA ADMIN. CODE 37.2(1)"b", 37.2(3), 37.3(1), 37.3(5), 37.3(6), 37.3(8), 37.4, and 37.5(1) (1999). The reasons for proposing these amendments are set forth in the attached notice of intended action.

IT IS THEREFORE ORDERED:

1. A rule making proceeding, identified as Docket No. RMU-00-2, is commenced for purposes of receiving comments upon the proposed rules attached to this order.

2. The Executive Secretary is directed to submit for publication in the Iowa Administrative Bulletin a notice in the form attached to and incorporated by reference in this order.

UTILITIES BOARD

/s/ Allan T. Thoms

/s/ Susan J. Frye

ATTEST:

/s/ Raymond K. Vawter, Jr. /s/ Diane Munns
Executive Secretary

Dated at Des Moines, Iowa, this 20th day of January, 2000.

**UTILITIES DIVISION [199]
NOTICE OF INTENDED ACTION**

Pursuant to Iowa Code section 477C.4, the Iowa Utilities Board (Board) gives notice that on January 20, 2000, the Board issued an order in Docket No. RMU-00-2, In re: Equipment Distribution Program. The Board is proposing to amend 199 IAC 37.2(1)"b", 37.2(3), 37.3(1), 37.3(5), 37.3(6), 37.3(8), 37.4, and 37.5(1). 199 IAC Chapter 37 contains the rules for the Equipment Distribution Program (EDP), which provides assistive telecommunications devices for hearing and speech impaired individuals.

The EDP is a voucher program, with the standard amount of the voucher set at 95 percent of the average retail market price for the piece of equipment that costs up to \$1,000 (99 percent for over \$1,000). The Board is concerned that there are individuals who cannot afford the co-payment required by the rules. Therefore, a hardship provision is added to 199 IAC 37.2(1)"b" to handle such instances on a case-by-case basis.

Rule 37.2(3) currently provides 60 days for the purchase of equipment to be completed, with an additional 20 days for the vendor to return the voucher to the program administrator. There have been problems with voucher recipients not turning in their vouchers to a dealer until the end of the 60 days, giving the dealer very little time to obtain the equipment if it is not in

stock or gets backordered. Thus, many waivers of this rule were necessary, which meant Board intervention. The rule change increases the total number of days to process the voucher from 100 to 120 days. The applicant is given 40 days to return the voucher to the dealer, giving the dealer 60 days to get the equipment to the applicant and return the voucher to the administrator. The amendment also provides the program administrator with limited authority to extend two of the deadlines.

Rule 37.3(1) currently requires applicants requesting equipment to have an appropriate professional verify their need for equipment. The rule does not differentiate between initial application and re-application (the current re-application waiting period is three years, although these rules propose to increase the re-application period to five years). In most cases, it is unlikely that the person's impairment has changed since the first verification. These persons should not be burdened with obtaining a second professional verification when re-applying for equipment. The proposed change removes the requirement that a verification of need be signed by an appropriate professional in cases of re-application. The exception to this is when a person's condition has changed from their previous application and they re-apply for a different category of equipment than originally received. The Board is also proposing a change in the first sentence to correct the grammar.

The current rule at 37.3(5) limits each household to a voucher for one type of equipment or equipment package. There are situations where both a deaf and a hard of hearing individual may live in the same household. Currently, the rule restricts households to only one type of equipment. These two disabilities require different equipment, so the Board proposes to change the rule to accommodate both disabilities.

Rule 37.3(6) provides for equipment replacement. Most equipment that Iowa's program distributes has a relatively long life span. Upon researching other state's programs and discussing the issue with other state EDP administrators at the conference for the national equipment distribution organization, Telecommunications Equipment Distribution Program Administrators (TEDPA), the consensus was that the assistive equipment has a life span of at least five years, and if properly cared for, even longer. Most states provide that equipment may be replaced after not less than five years. Iowa's program has the shortest period of three years. This proposal would change Iowa's reapplication period from three to five years.

In addition, if a person wishes to reapply before the reapplication period expires, the current rule requires a waiver to be given by the Board. The program administrator is in a better position to determine the need for replacement equipment prior to the end of the normal replacement period. The second change to rule 37.3(6) would give the authority to determine the appropriateness of the reapplication to the program administrator.

Rule 37.3 sets eligibility criteria for applicants to be eligible to receive assistance from the program. Subrule 37.3(8) sets a household income limit. The current rule contains an income limit for a family of four of \$45,000. The Board believes that a set income limit should be stated in the rules, it should be based on the median family income, and it should be an amount high enough to accommodate increases which will occur in the next three to four years.

Since the rule is expected to be effective for several years, the Board is proposing that the income limit in the rules be \$30,000 for a family of one, with an increase of \$9,000 for each additional family member. The income for a family of four would be \$57,000. These limits are based on a report generated by the Iowa Department of Human Services to determine eligibility for its various programs. Their source is the Census Bureau's report that shows the Iowa median income for the year 2000 for a family of one is \$26,927, and for a family of four is \$51,782. The Census Bureau report showed an Iowa median income level in 1999 of \$25,047 for a family of one, and \$48,167 for a family of four. For each additional person in the family up to six people, the limit is increased by \$8,285 for the year 2000. For 1999, the increase was \$7,707 for each additional person.

Rule 37.4 gives examples of the types of equipment distributed through the program. The last sentence states that a limited number of telebrailers are available. However, telebrailers are no longer being manufactured and

are virtually impossible to obtain. Since telebraillers are, in effect, not available, there has been some attempt to fill the void by other manufacturers, but it is an evolving process. Currently, there are some telecommunications devices that are available for the use of deaf/blind individuals called braille phones. Braille phones are quite costly, as were the telebraillers, with a price of over \$6,000. These may or may not be the ultimate replacement for telebraillers. Since equipment for these individuals is an evolving process, putting a named piece of equipment in the rule should be avoided. Therefore, the language is proposed to be changed from “telebraillers” to “telecommunications devices for the deaf/blind.”

The Board proposes to revise complaint subrule 37.5(1) to clarify that a person with a complaint may also go to the Board with their complaint. The intent is to treat complaints under the equipment distribution program the same as utility customer complaints under the Board’s complaint procedures if the program administrator is unable to resolve complaints informally. Also, many deaf individuals may have difficulty writing their complaint, as English may not be their first language (i.e., American Sign Language is their primary language). To simplify the process, wording has been added to the rule to specify that complainants may state their complaint verbally as well as in writing. Finally, the proposal provides that informal settlement should be attempted to be completed within 45 days. This requirement will help to avoid any long delays in resolving a complaint. If the complaint cannot be

resolved through the informal process within 45 days, the complainant may submit the complaint to the Board for resolution.

Any interested person may file a written statement of position on the proposed rules no later than March 10, 2000, by filing an original and ten copies in a form substantially complying with 199 IAC 2.2(2). All written statements should include the author's name and address and should specifically refer to this docket. All statements should be directed to the Executive Secretary, Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069.

If requested pursuant to Iowa Code section 17A.4(1)"b", or on its own motion after reviewing the statements, the Board will determine whether an opportunity for oral presentation should be provided.

These rules are intended to implement Iowa Code section 477C.4.

Item 1. Amend 199 IAC 37.2(1)"b" in the following way:

b. The standard amount shall be 95 percent of the average retail market price for the piece of equipment, unless the retail market price is more than \$1,000, in which case the standard amount shall be 99 percent of the average retail market price. The standard amount may be increased to 100 percent if a person demonstrates to the program administrator that he or she is unable to pay the matching amount.

Item 2. Amend 199 IAC 37.2(3) in the following way:

37.2(3) Term. The vouchers shall provide for a 40-day period to present the voucher to the vendor. The vendor, upon presentation of the voucher, shall have 60 days to complete the sale and delivery of the equipment ~~purchase~~ and to return the voucher to the program administrator. The program administrator shall have 20days to process and return the voucher to the board for payment. The program administrator, for good cause shown, may extend either the 40- or 60-day deadline, provided the voucher is returned to the board for payment within 120 days from the issuance of the voucher. Except for good cause shown, the vendor will not be reimbursed for a voucher issued more than 120 days before the voucher is returned to the board for payment.

Item 3. Amend 199 IAC 37.3(1) in the following way:

37.3(1) The applicant's need for the equipment must be verified by an appropriate professional including but not limited to a licensed physician; certified teacher in the fields of hearing, speech, or visually impairment; ~~ed~~; speech pathologist; audiologist; or an appropriate state or federal agency representative, as part of the initial application. At the time of reapplication for equipment, the applicant must submit a statement certifying the applicant's condition has not changed such that a different type of equipment is needed. If an applicant's condition has changed to the extent a different type of equipment is needed from that originally received, the applicant's need must be verified by an appropriate professional.

Item 4. Amend 199 IAC 37.3(5) in the following way:

37.3(5) The applicant will be limited to a voucher for one type of equipment or equipment package. If there are individuals in the same household that have different communication impairments that require different types of assistive telecommunications equipment, they may make a joint or separate request to the Equipment Distribution Program administrator. The administrator may grant those portions of the requests that satisfy the eligibility requirements in this rule.

Item 5. Amend 199 IAC 37.3(6) in the following way:

37.3(6) Equipment may be replaced under the program by reapplication as appropriate. Reapplication will be limited by a five-year waiting period. The reapplication period may be shortened by the program administrator for good cause shown.

Item 6. Amend 199 IAC 37.3(8) in the following way:

37.3(8) An applicant's gross household income must be less than \$57,000 for a family of four. Household numbers above or below four will increase or decrease that amount in \$9,000 increments.

Item 7. Amend 199 IAC 37.4 in the following way:

199—37.4(477C) Equipment. The board will authorize the types of equipment to be distributed through the program, including but not limited to telecommunications devices for the deaf with printers, signalers, amplifiers,

computer software, and a limited number of telecommunications devices for the deaf/blind.

Item 8. Amend 199 IAC 37.5(1) in the following way:

37.5(1) The program administrator will make determinations concerning matters such as eligibility, type of equipment for particular applicants, or reimbursement of vendors.

a. The administrator, after requiring interested persons to state verbally or in writing any complaint or dispute arising under the equipment distribution program, shall attempt to settle the matter informally within 45 days.

b. Should the informal dispute resolution process fail, the complaint may be submitted to the board by the complainant and will be processed by the project manager as provided for utility customers in 199 IAC Chapter 6. The complaint will be directed to the program administrator with a copy to the Consumer Advocate. The board staff assigned to the equipment distribution program will then issue a proposed resolution as defined in 199 IAC 6.4.

c. The proposed resolution shall include a description of the facts involved in the dispute and a clear statement of the proposed resolution.

d. The proposed resolution shall also give notice that any interested person dissatisfied with the proposed resolution has 14 days after the issuance of the proposed resolution to file a written request for formal complaint proceedings before the Iowa Utilities Board, 350 Maple Street, Des Moines, Iowa 50319-0069. If no timely request for formal complaint

proceedings is filed, the proposed resolution shall be deemed binding on all interested persons served with the proposed resolution. The request for formal complaint proceedings shall be considered as filed on the date of the United States Postal Service postmark or the date personal service is made.

These rules are intended to implement Iowa Code section 477C.4.

January 20, 2000

/s/ Allan T. Thoms
Allan T. Thoms
Chairperson